

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
December 3, 1986 to June 30, 1987
Chapters 1-542

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PUBLIC LAWS

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and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a licensed nurse who is certified by the American Nurses' Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing, any person covered by the policy shall be entitled to reimbursement for these services if the services are performed by a physician, a psychologist licensed to practice in this State, certified social worker licensed for independent practice in this State who has at least a masters degree in social work from an accredited educational institution, who has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a licensed nurse certified by the American Nurses' Association as a clinical specialist in adult or child and adolescent psychiatric and mental health nursing. With respect to services provided by physicians or psychologists, this section applies to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after April 16, 1976. Payment or reimbursement for services rendered by clinical social workers licensed in this State shall not be conditioned upon prior diagnosis or referral by a physician or other health care professional, except in cases where diagnosis of the condition for which the services are rendered is beyond the scope of their licensure. ~~With respect to services provided by social workers and nurses, this section applies to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after January 1, 1984, and before January 1, 1988.~~

Effective September 29, 1987.

CHAPTER 81

S.P. 142 — L.D. 396

AN ACT to Amend the Law Regarding the Organization and Management of Stock Institutions.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-B MRSA §312, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Incorporators. Five or more persons, a majority of whom shall be residents of this State, may agree in writing to associate themselves for the purpose of forming a stock financial institution pursuant to this chapter.

If a company is a financial institution holding company or will become a financial institution holding company as a result of the formation of a stock institution pursuant to this chapter, then the company proposing to organize a stock institution may be the sole incorporator. The company must subscribe to and ultimately purchase 100% of the capital stock of the institution in order to

become the sole incorporator. A majority of the board of directors of the company must resolve to seek to organize the stock financial institution.

Sec. 2. 9-B MRSA §312, sub-§2, ¶G, as enacted by PL 1975, c. 500, §1, is amended to read:

G. Such additional information, including the reasons why an institution of the type specified in paragraph B is needed in the proposed location, as the superintendent may require by regulation. No application for a permission to organize shall may be deemed considered complete unless accompanied by an application fee of \$1,000 as determined by the superintendent, payable to the Treasurer of State, to be credited and used as provided in section 214. In no event may that fee be less than \$1,000 or greater than \$5,000.

Sec. 3. 9-B MRSA §312, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Publication of notice. After determining that the application required in subsection 2 is complete, the superintendent shall advise the incorporators to publish, within 15 days of such advice, a notice in such form as the superintendent may prescribe. Such notice shall appear at least once a week for 3 successive weeks in one or more newspapers of general circulation in the county where the financial institution is to be established, or in such other newspapers as the superintendent may designate. Such published notice shall specify the names, addresses and occupations or businesses of each of the incorporators and directors, the type of financial institution to be organized, and the name of the institution and its location as set forth in the application for permission to organize. The superintendent may require individual notice to any person or corporation, and may require that one of such publications contain the information required under section 252, subsection 2.

Sec. 4. 9-B MRSA, §312, sub-§4, as amended by PL 1979, c. 663, §34, is further amended to read:

4. Permission from superintendent.

~~A. Within 10 days after the first publication of the notice required in subsection 3, the incorporators shall apply to the superintendent for a certificate that public convenience and advantage will be promoted by the establishment of a financial institution of the type set forth in their application; and such request shall be deemed as completing the application for purposes of section 252, subsection 2.~~

B. In determining whether or not a certificate of public convenience and advantage will be promoted by granting permission to organize the type of institution requested; which permits the incorporator or incorporators to organize the type of financial institution requested, should be granted, the superintendent shall make his decision in accordance with the requirements

of section 253, pursuant to the procedures set forth in section 252.

C. A grant of a certificate of public convenience and advantage ~~and permission to organize~~ may include such terms and conditions as the superintendent ~~may deem~~ determines necessary including. These may include, but are not limited to, an increase in the minimum capital stock pursuant to subsection 5.

Sec. 5. 9-B MRSA §312, sub-§5, ¶A, as enacted by PL 1975, c. 500, §1, is amended to read:

A. The certificate of public convenience and advantage ~~and permission to organize~~, granted in writing by the superintendent, shall set forth the minimum amount of paid-in capital stock which a stock financial institution shall have to begin business.

Sec. 6. 9-B MRSA §312, sub-§6, as enacted by PL 1975, c. 500, §1, is amended to read:

6. Effect of denial. If the superintendent ~~denies permission to organize or~~ refuses to issue a certificate of public convenience and advantage, the application may be renewed in the manner provided in this section after one year from the date of ~~such denial~~ the refusal.

Sec. 7. 9-B MRSA §313, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

Upon receipt of a certificate of public convenience and advantage ~~and permission to organize~~ pursuant to section 312, the ~~incorporator or~~ incorporators shall comply with the following requirements:

Sec. 8. 9-B MRSA §313, sub-§§1 and 2, as enacted by PL 1975, c. 500, §1, are amended to read:

1. Franchise during organization. The ~~incorporator or~~ incorporators and subscribers to stock in the institution as set forth in the application for permission to organize, and who subsequently receive ~~permission a~~ certificate of public convenience and advantage from the superintendent, shall hold the institution's franchise until such time as the requirements of this section are met, or the superintendent determines that ~~said the~~ requirements have not been complied with.

2. First meeting: adoption of articles and bylaws; elections.

A. Within 30 days after receipt of a certificate of public convenience and advantage ~~and permission to organize~~ pursuant to section 312, the first meeting of the incorporators and subscribers to stock in the institution shall be called by a notice signed by that incorporator or subscriber who was designated in the application for that purpose, or by a majority of the incorporators and subscribers. Such notice shall state the time, place and purposes of the meeting. A copy of the notice shall, at least 3 days before the date appointed

for the meeting, be given to each incorporator and subscriber, or left at his residence or usual place of business, or deposited in the post office addressed to him at his residence or usual place of business, and another copy thereof, together with an affidavit of one of the incorporators or subscribers that the notice has been duly served, shall be recorded with the records of the institution. If all the incorporators and subscribers shall, in writing indorsed upon the application to organize, waive such notice and fix the time and place of the meeting, no notice shall be required.

If the applicant is a sole incorporator as permitted by section 312, subsection 1, then the preceding requirements for the first meeting can be waived. Instead, the adoption of articles and bylaws and the election of directors and officers for the proposed institution can take place at a special meeting, called specifically for this purpose, of the applicant's board of directors within 30 days after the receipt of a certificate of public convenience and advantage.

B. At ~~such the~~ first meeting or at any adjournment thereof, the ~~incorporator or~~ incorporators and ~~subscriber or~~ subscribers shall by ballot select a temporary clerk, adopt articles of incorporation and bylaws and, in such manner as the bylaws may determine, elect directors, a president, a clerk and such other officers as the bylaws may prescribe. All the officers so elected shall be sworn to the faithful performance of their duties. Upon election and the swearing of directors, the power and responsibility of the incorporator or incorporators for the institution shall cease.

C. The temporary clerk, if applicable, shall make and attest a record of the proceedings until the clerk has been chosen and sworn, including a record of such choice and qualification.

D. Within 10 days after adoption of the articles of incorporation and bylaws, the clerk of the institution being so organized shall file with the superintendent copies thereof; and, within 15 days after receipt, the superintendent shall, after examining such articles and bylaws for conformance with the requirements of this Title, approve or disapprove of such articles and bylaws.

Sec. 9. 9-B MRSA §316, sub-§1, ¶D, as enacted by PL 1975, c. 500, §1, is repealed and the following enacted in its place:

D. No person may be eligible to serve as a director of any stock financial institution unless he is the actual owner of stock in the institution with a market value of not less than \$2,500, or is a nominee of a financial institution holding company which holds stock in such institution in that amount. For as long as a person is a director, he must hold the number of shares which constituted \$2,500 of market value when he first became a director. The number of shares may not be reduced if the market value increases and the number

of shares need not be increased if the market value declines. For persons serving as bank directors on January 1, 1987, their qualifying shares will automatically be reduced to the number of shares representing \$2,500 of the market value on December 31, 1987. Qualifying shares may not be encumbered.

Effective September 29, 1987.

CHAPTER 82

S.P. 149 — L.D. 403

AN ACT to Establish a Commemorative Day in Honor of Samantha Smith.

Be it enacted by the People of the State of Maine as follows:

1 MRSa §126 is enacted to read:

§126. Samantha Smith Day

The first Monday in June of each year is designated as Samantha Smith Day, in memory of Samantha Smith whose birthday was June 29th. The Governor shall issue annually a proclamation inviting and urging the people of this State to observe the day in schools and other suitable places with appropriate ceremony and activity. Samantha Smith Day shall commemorate and honor Samantha Smith whose vision and inspiring message for peace and brotherhood opened the door to greater understanding and friendship among nations of the world. The Department of Educational and Cultural Services shall make appropriate information available to the people and the schools within the limits of its budget.

Effective September 29, 1987.

CHAPTER 83

S.P. 166 — L.D. 470

AN ACT to Provide for District Elections in Piscataquis County.

Be it enacted by the People of the State of Maine as follows:

30 MRSa §105-X, as enacted by PL 1983, c. 607, §3, is amended to read:

§105-X. Residency and election of county commissioners

Members of each board of commissioners created under section 105-W shall be residents of the commissioner district which they represent and shall be elected by the qualified voters of that district, ~~except that members of the Piscataquis County Board of Commissioners shall~~

~~be residents of the commissioner district which they represent and shall be elected at large by the qualified voters of the county.~~

Effective September 29, 1987.

CHAPTER 84

S.P. 420 — L.D. 1300

AN ACT to Extend the Reporting Deadline for the Teacher and Administrator Certification Study.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the teacher and administrator certification law is a vital component of Maine's recent educational reform movement; and

Whereas, the reports on the teacher certification pilot projects have just recently been presented to the Legislature and the reports on the administrator certification pilot projects are incomplete at this time; and

Whereas, the Legislature requires additional time to complete a thorough investigation of the certification law and the pilot projects in order to develop appropriate recommendations; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PL 1983, c. 845, §5, 3rd ¶ is amended to read:

The joint standing committee of the Legislature having jurisdiction over education; shall conduct its own review of the effect of this Act, and the pilot projects and the rule making accomplished to date by the state board; conduct at least one public hearing on the pilot projects and state board's interim report; and shall make what recommendations it deems appropriate, including statutory changes, if any, prior to ~~April 1, 1987~~ May 1, 1987.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 27, 1987.